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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,627	08/31/2001	Peiguang Zhou	KCC-17,049	9253

7590

07/17/2003

SENNIGER, POWERS, LEAVITT & ROEDEL  
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ST. LOUIS, MO 63102

EXAMINER

JACKSON, MONIQUE R

ART UNIT

PAPER NUMBER

1773

12

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/944,627

Applicant(s)

ZHOU, PEIGUANG

Examiner

Monique R Jackson

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-65 is/are pending in the application.
- 4a) Of the above claim(s) 15-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,8,11.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I, Claims 1-14, in Paper No. 10 is acknowledged.
2. Claims 15-65 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 10.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4-7, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 62-081470A (JP'470.) JP'470 teaches an adhesive composition comprising 5-70wt% hydrogenated styrene-isoprene-styrene or styrene-butadiene-styrene block copolymer, and 1-75wt% of crystalline isotactic polypropylene, which inherently has a crystallinity within the instantly claimed range, and having a number-average molecular weight of 20,000 (Abstract.)
5. Claims 1-7 and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Finerman et al (USPN 6,288,171.) Finerman et al teach a composition comprising rubber,

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including those as instantly claimed such as EPDM, and crystalline isotactic polypropylene having a crystallinity and number average molecular weight (*based on Mw and MWD*) within the instantly claimed ranges wherein the amount of rubber and the amount of crystalline polypropylene fall within the instantly claimed range (Col. 1-Col. 2; Col. 5, lines 21-28; Col. 6-Col. 7; Examples.)

6. Claims 1-5 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/37144 teach a heterophasic olefin polymer composition comprising 5-50, preferably 10-40% of a crystalline isotactic polypropylene homopolymer with an isotactic index greater than 80%, which would inherently have a crystallinity within the instantly claimed range, and 40-95%, preferably 50-75% of an elastomeric copolymer of ethylene, propylene and minor amounts of diene (ethylene-propylene-diene rubber) (Abstract; Page 3.)

7. Claims 1-7 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Shibuya et al (USPN 6,235,356.) Shibuya et al teach a resin composition comprising 50 to 98wt% butyl rubber and from 2 to 50wt% crystalline polyolefin wherein the crystalline polyolefin is polyethylene or polypropylene including high density polyethylene or syndiotactic or isotactic polypropylene, with a crystallinity of at least 30%, preferably at least 50%, with example values to 90%, and a molecular weight which is not particularly limited but examples include a number average molecular weight of from about 200,000 for polyethylene and from about 100,000 for polypropylene (Abstract; Col. 2, lines 59-67; Col. 4, lines 8-24; Col. 7, line 23-Col 8, line 65.)

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***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shibuya et al. The teachings of Shibuya et al are discussed above. Though Shibuya et al teach the same materials as instantly claimed in amounts within the instantly claimed range wherein the crystalline polyolefin has a molecular weight and crystallinity as instantly claimed, Shibuya et al do not specifically teach the melt index as instantly claimed. Shibuya et al also teach that the composition may comprise inorganic filler wherein an increase in filler may increase the melt viscosity of the composition. Hence, given that the melt index or melt viscosity is a result-effective variable affecting the ability of the composition to flow under temperature, one having ordinary skill in the art at the time of the invention would have been motivated to utilize routine experimentation to determine the optimum melt index of the composition taught by Shibuya et al for a particular end use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 703-308-0428.

The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 703-308-2367. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Monique R. Jackson  
Patent Examiner  
Technology Center 1700  
July 13, 2003